

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HC2, INC.,

Plaintiff,

1:20-cv-03178-LJL

-against-

AFFIRMATION IN OPPOSITION
TO PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION

ANDREW DELANEY,

Defendant.
-----x

Robert Rotman, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the attorney for the Defendant in the above-captioned litigation. I make this affirmation based on my personal knowledge and in support of Defendant’s Opposition to Plaintiff’s Motion for Preliminary Injunction.

2. Attached are true and correct copies of representative printouts from the worldwide web which were used as the basis for the complaint in the case of *John Doe v. Toyota Motor Corporation et al.*, No. 05-2020-CA-024281-XXXX-XX, which was voluntarily withdrawn in the Eighteenth Judicial Circuit Court in Brevard County, State of Florida. (Where Thai, English machine translations follow at the end.)

3. Attached as Exhibit A is a true and correct copy of Thailand’s Transparency International Corruption Perception Index Ranking for 2017 as “Highly Corrupt.”

4. Attached as Exhibit B is a true and correct copy of about a Toyota Motor Thailand (“TMT”) press release about “kaizen”.

5. Attached as Exhibit C is a true and correct copy of a 2015 Reuters article about the Thai Nation Associate Anti-Corruption Network NGO asking for a tax investigation of Toyota.
6. Attached as Exhibit D is a true and correct copy of a 2017 article about Toyota's activities in Thailand.
7. Attached as Exhibit E is a true and correct copy of a 2019 news article about a suspicious fire at Laemchabang Port where Toyota cars were destroyed.
8. Attached as Exhibit F is a true and correct copy of a 2019 "Bangkok Post" article about Toyota's prodding Deputy Prime Minister Dr. Somkid Jatusripitak ("Dr. Somkid") for BOI privileges.
9. Attached as Exhibit G is a true and correct copy of a 2019 news story about the Thai Industry Minister and officials visiting Toyota in Japan.
10. Attached as Exhibit H is a true and correct copy of an article referring to Toyota's "goshi cars."
11. Attached as Exhibit I is a true and correct copy of a 2010 news story about Toyota's being fined \$250 million in taxes in Australia due to "transfer pricing."
12. Attached as Exhibit J is a true and correct copy of pages of google images of Thai Deputy Prime Minister Dr. Somkid and Toyota Thailand chairman Ninnart Chaithirapinyo.
13. Attached as Exhibit K is a true and correct copy of a "Thai Rath" newspaper profile of Capt. Suchart Chaovisit, former Director-General of the Thai Revenue Department and and former Thai Finance Minister. As described in Exhibit LL his family members sit on the board of

Toyota Tsusho Thailand. Toyota Tsusho Thailand is a joint venture of Toyota Tsusho Corporation of Japan and the Chaovisit family.

14. Attached as Exhibit L is a true and correct copy of a Toyota press release about its 2010 donations of 4.5 million Baht to the Thai government, including Channel 9, which was run by former Toyota VP and politician Mingkwan Saengsuwan.

15. Attached as Exhibit M is a true and correct copy of a 2014 “Post Today” Thai newspaper article about Toyota’s use of “3rd country invoicing” to avoid taxes.

16. Attached as Exhibit N is a true and correct copy of a 2010 press release about Toyota’s giving 22 cars to Association of South East Asian Nations (“ASEAN”) ministers.

17. Attached as Exhibit O is a true and correct copy of a 2013 article about Toyota’s sponsorship of Buriram United Football Club, which is politically linked.

18. Attached as Exhibit P is a true and correct copy of a 2014 article in the mass circulation “Thai Rath” newspaper¹ about Toyota’s investigation of tax evasion in importing the Prius as well as other cases in which it was charged such as in 2008. Mentions “customs appeals committee”.

19. Attached as Exhibit Q is a true and correct copy of 2014 “Post Today” news story about Toyota’s tax evasion and “3rd country invoicing” with “India”.

20. Attached as Exhibit R is a true and correct copy of a 2014 “Manager” newspaper article about Toyota’s tax evasion and the customs appeal committee.

¹ “Thai Rath” is one of the most important newspapers in the world, with daily circulation of 3 million and pass-along readership of 10 million. So, its news will be widely known throughout the country’s 76 provinces.

21. Attached as Exhibit S is a true and correct copy of a 2014 “Bangkok Biz News” story about Toyota being attacked for tax evasion.
22. Attached as Exhibit T is a true and correct copy of a 2015 article in which an anti-corruption NGO publicly accused Toyota of tax evasion in importing the Prius.
23. Attached as Exhibit U is a true and correct copy of is a 2017 “Isra News” article about the legal cases between the Customs Department and Toyota “being watched”.
24. Attached as Exhibit V is a true and correct copy of a December 13, 2017 “Matichon” newspaper story about Deputy Prime Minister Dr. Somkid presiding over the funeral rites of the wife of Toyota Thailand chairman Ninnart Chaithirapinyo.
25. Attached as Exhibit W is a true and correct copy of a January 2020 “Line” story about Toyota’s donations to the Democrat Party.
26. Attached as Exhibit X is a true and correct copy of a “Gnews” story about Industry Minister Suriya Jungrungruangkit² meeting with Toyota executives.
27. Attached as Exhibit Y is a true and correct copy of the results of a google search of “Toyota Thailand VIP pricing”.
28. Attached as Exhibit Z is a true and correct copy of Toyota’s 2018 advertisement of a special interest rate for “civil servants and state enterprise employees.”
29. Attached as Exhibit AA is a true and correct copy of a 2017 “promotion for civil servants and government employees” and “with many discounts and free gifts.”

² Mr. Suriya’s company, Thai Summit, is the largest auto parts company in Thailand.

30. Attached as Exhibit BB is a true and correct copy of a search hit to a “Matichon” 2006 editorial about Toyota’s import of the “Explorer” from Japan “causing the state to lose millions of Baht in revenue.”

31. Attached as Exhibit CC is a true and correct copy of a google search summary of the book “Thai Capital After the 1997 Crisis” about Industry Minister Suriya’s business group being “very closely associated” with Toyota.

32. Attached as Exhibit DD is a true and correct copy of a 2013 “FCPA Blog” story “In Japan, arrest at Toyota supplier for China bribes.”

33. Attached as Exhibit EE is a true and correct copy of the “Legal 500” profile of R&T’s senior partner Judge Surasak Vajasit listing “Toyota Motor” as a “Key Client”. It refers to his “previous experience as a judge.”

34. Attached as Exhibit FF is a true and correct copy of printouts from the www.annanon.com website of Annanon Law Office. It lists him as a director of Sathorn Asset, CI Group Plc, Scan Global Plc (“SCAN”), and Survey and Analyze Company Limited. He is a very well recognized lawyer in Thailand.

35. Attached as Exhibit GG is a true and correct copy of a February 9, 2016 listed company news to the Stock Exchange of Thailand for SCAN announcing Jurairat E. Bonython and Songpol Annanon becoming directors. Jurairat E. Bonython is a recognized vehicle dealer in Thailand.

36. Attached as Exhibit HH is a true and correct copy of a 2015 “Isranews Agency” article about tax problems at SCAN and that Songpol Annanon is a director.

37. Attached as Exhibit II is a true and correct copy of a “LinkedIn” profile of Supharin Chattaworn at FTI Consulting in Singapore. The profile says that Mr. Supharin worked at the Prime Minister’s Office in Thailand.
38. Attached as Exhibit JJ is a true and correct copy of company registration information about TMT.
39. Attached as Exhibit KK is a true and correct copy of the public financial position and income statements from 2015-2019 of TMT.
40. Attached as Exhibit LL is a true and correct copy of company registration information about Toyota Tsusho (Thailand) Co., Ltd., showing the Jaovisidha (Chaovisit) family are part of the board.
41. Attached as Exhibit MM is a true and correct copy of company registration information about Annanon Law Office Co., Ltd.
42. Attached as Exhibit NN is a true and correct copy of company registration information about J Brothers Company Limited.
43. Attached as Exhibit OO is a true and correct copy of public “juristic information” about Survey and Analyze Company Limited (“S&A”) showing it as dissolved.
44. Attached as Exhibit PP is a true and correct copy of company registration information about S&A showing it as having been dissolved on September 11, 2019.
45. Attached as Exhibit QQ is a true and correct copy of a Hong Kong company search of Survey and Analyze (Hong Kong) Co., Limited (“S&AHK”).

46. Attached as Exhibit RR is a true and correct copy of a “google maps” printout of the office address of S&AHK at Sino Centre in Mongkok district, Kowloon.

47. Attached as Exhibit SS is a true and correct copy of a 2014 “Bloomberg” news story “Top Chinese official accused of taking bribes from Toyota JV.”

48. Attached as Exhibit TT is a true and correct copy of a printout of the California Bar attorney licensee search of Christopher T. Yang with his email address.

49. Attached as Exhibit UU is a true and correct copy of a copy of the “Brevard Electronic Court” docket of the Florida case showing “voluntary dismissal of entire case” on April 24, 2020.

50. Attached as Exhibit VV is a true and correct copy of New York Rule of Professional Conduct 1.6 (Confidential Information).

51. I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 15, 2020

/s/Robert Rotman
Robert Rotman